

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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GOVERNMENT EMPLOYEES INSURANCE  
CO., GEICO INDEMNITY CO., GEICO GENERAL  
INSURANCE COMPANY and GEICO CASUALTY CO.

10-CV-2671 (SLT)(CLP)

Plaintiffs,

-against-

MICHAEL D. GREEN, M.D. and  
CLIFFORD BEINART, M.D.,

Collectively the “Nominal Owner Defendants”

-and-

VISTA MEDICAL DIAGNOSTIC IMAGING, P.C. and  
TOTAL GLOBAL MEDICAL, P.C.,

Collectively the “PC Defendants”

IMAGING ASSOCIATES OF FIVE BOROUGHES, L.L.C.,  
FIVE COUNTY IMAGING HOLDINGS, L.L.C. and  
ASAF YEVDAYEV,

Collectively the “Management Defendants”

-and-

RAPUZZI, PALUMBO & ROSENBERG, P.C.,  
PATRICIA RAPUZZI an DANNY MONTANEZ,

Collectively the “Lawyer Defendants”

-----X  
The defendant Danny Montanez, by his attorneys, SHAPIRO & COLEMAN, P.C., as and  
for his Answer to the plaintiffs’ Complaint, alleges:

**ANSWER  
OF DEFENDANT  
DANNY MONTANEZ**

### **INTRODUCTION**

1. Denies having any knowledge or information thereof sufficient to form a belief as to the truth of each and every allegation contained in paragraphs of the Introduction of the Complaint therein designated: 1 (i),(ii); 2 (i), (ii), (iii); 3 (i), (ii), (iii); 4(i), (ii), (iii)(a)

2. Denies each and every allegation contained in paragraphs of the Introduction as alleged against Danny Montanez therein designated: 1 (iii), (iv), (v), (vi); 2 (iv); 3 (iv); 4(b); 5.

### **THE PARTIES**

3. Denies having any knowledge or information thereof sufficient to form a belief as to the truth of each and every allegation contained in paragraphs of The Parties therein designated: I.6.; II A. 7, 8; B. 9, 10; C. 11, 12, 13; D.14, 15.

4. As to paragraph 16, admits only that defendant Montanez is an attorney licensed to practice law in the State of New York and denies each and every allegation therein contained in paragraph 16.

### **JURISDICTION AND VENUE**

5. Denies having any knowledge or information thereof sufficient to form a belief as to the truth of each and every allegation contained in paragraphs 17 and 18; however, respectfully submits that this Honorable Court shall determine whether the Court has jurisdiction over the subject matter and venue of this action, as well as whether venue as alleged, is proper, as set forth in paragraphs 17 and 18 of the Complaint.

### **ALLEGATIONS COMMON TO ALL CLAIMS**

6. Denies having any knowledge or information thereof sufficient to form a belief as to the truth of each and every allegation contained in paragraphs: 19, 22, 33, 34, 35, 36, 37, 38 (i) –

(xii), 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49 (i) – (xvii), 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62.

7. Denies each and every allegation as alleged against defendant Danny Montanez, therein contained in paragraphs 63, 64, 65, 66, 67 (i) – (x), 68, 69, 71, 72, 73, 74, 75, 76, 77 and 78.

8. Admit the allegations contained in paragraph 70.

9. Denies having any knowledge or information thereof sufficient to form a belief as to the truth of each and every allegation contained in paragraphs 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32 and respectfully submits all question of New York State Statutory Law and/or the application of New York State Statutory Law to the Complaint, to this Honorable Court.

#### **FIRST CAUSE OF ACTION**

10. Answering paragraph number “79” of the plaintiffs’ Complaint herein, defendant, Danny Montanez, repeats, reiterates and realleges each and every denial heretofore made in regard to each and every paragraph of plaintiffs’ Complaint, designated as “1” through “78” inclusive with the same force and effect as though more fully set forth at length herein.

11. Denies having knowledge or information thereof sufficient to form a belief as to the truth of each and every allegation contained in paragraphs 80, 81, 82, 83, 84, 85 (i) – (iv).

#### **SECOND CAUSE OF ACTION**

12. Answering paragraph number “86” of the plaintiffs’ Complaint herein, defendant, Danny Montanez repeats, reiterates and realleges each and every denial heretofore made in regard to each and every paragraph of plaintiffs’ Complaint, designated as “1” through “85” inclusive with the same force and effect as though more fully set forth at length herein.

13. Denies having knowledge or information thereof sufficient to form a belief as to the truth of each and every allegation contained in paragraphs 87, 88, 89, 91, 92.

14. Denies the allegations of paragraph 90, as it applies, refers or relates to defendant Danny Montanez.

### **THIRD CAUSE OF ACTION**

15. Answering paragraph number “93” of the plaintiffs’ Complaint herein, defendant, Danny Montanez repeats, reiterates and realleges each and every denial heretofore made in regard to each and every paragraph of plaintiffs’ Complaint, designated as “1” through “92” inclusive with the same force and effect as though more fully set forth at length herein.

16. Denies having knowledge or information thereof sufficient to form a belief as to the truth of each and every allegation contained in paragraph 94, and respectfully refers all questions of law and the application of said law to this Honorable Court.

17. Denies each and every allegation, contained in paragraphs: 95, 96, 97, 98, 99, 100, 101, as it applies, refers or relates to defendant Danny Montanez.

### **FOURTH CAUSE OF ACTION**

18. Answering paragraph number “102” of the plaintiffs’ Complaint herein, defendant Danny Montanez repeats, reiterates and realleges each and every denial heretofore made in regard to each and every paragraph of plaintiffs’ Complaint designated as “1 through “101” inclusive with the same force and effect as though more fully set forth at length herein.

19. Denies having knowledge or information thereof sufficient to form a belief as to the truth of each and every allegation contained in paragraphs 103, 104, 105, 106.

20. Denies each and every allegation, contained in paragraphs 107, 108, 109 and 110, as it applies, refers or relates to defendant Danny Montanez in

**FIFTH CAUSE OF ACTION**

21. Answering paragraph number “111” of the plaintiffs’ Complaint herein, defendant Danny Montanez repeats, reiterates and realleges each and every denial heretofore made in regard to each and every paragraph of plaintiffs’ Complaint designated as “1 through “110” inclusive with the same force and effect as though more fully set forth at length herein.

22. Denies having knowledge or information thereof sufficient to form a belief as to the truth of each and every allegation contained in paragraphs 112 and 114.

23. Denies each and every allegation, contained in paragraphs 113, 115 and 116, as it applies, refers or relates to defendant Danny Montanez

**SIXTH CAUSE OF ACTION**

24. Answering paragraph number “117” of the plaintiffs’ Complaint herein, defendant Danny Montanez repeats, reiterates and realleges each and every denial heretofore made in regard to each and every paragraph of plaintiffs’ Complaint designated as “1 through “116” inclusive with the same force and effect as though more fully set forth at length herein.

25. Denies having knowledge or information thereof sufficient to form a belief as to the truth of each and every allegation contained in paragraphs 117 and 118.

26. Denies having knowledge or information thereof sufficient to form a belief as to the truth of each and every allegation contained in paragraphs 119 and 120.

27. Denies each and every allegation contained in paragraphs 121, 122 and 123, as it applies, refers or relates to defendant Danny Montanez

**SEVENTH CAUSE OF ACTION**

28. Answering paragraph number “124” of the plaintiffs’ Complaint herein, defendant Danny Montanez repeats, reiterates and realleges each and every denial heretofore made in



regard to each and every paragraph of plaintiffs' Complaint designated as "1 through "123" inclusive with the same force and effect as though more fully set forth at length herein.

29. Denies having knowledge or information thereof sufficient to form a belief as to the truth of each and every allegation contained in paragraph 125.

30. Denies each and every allegation contained in paragraphs 126, 127, 128, 129 and 130, as it applies, refers or relates to defendant Danny Montanez

#### **EIGHTH CAUSE OF ACTION**

31. Answering paragraph number "131" of the plaintiffs' Complaint herein, defendant Danny Montanez repeats, reiterates and realleges each and every denial heretofore made in regard to each and every paragraph of plaintiffs' Complaint designated as "1" through "130" inclusive with the same force and effect as though more fully set forth at length herein.

32. Denies having knowledge or information thereof sufficient to form a belief as to the truth of each and every allegation contained in paragraphs 132, 133, 134 and 135.

33. Denies each and every allegation contained in paragraphs 136, 137, 138 and 139, as it applies, refers or relates to defendant Danny Montanez

#### **NINTH CAUSE OF ACTION**

34. Answering paragraph number "140" of the plaintiffs' Complaint herein, defendant Danny Montanez repeats, reiterates and realleges each and every denial heretofore made in regard to each and every paragraph of plaintiffs' Complaint designated as "1" through "139" inclusive with the same force and effect as though more fully set forth at length herein.

35. Denies having knowledge or information thereof sufficient to form a belief as to the truth of each and every allegation contained in paragraphs 141 and 142.

36. Denies each and every allegation contained in paragraphs 143, 144 and 145, as it applies, refers or relates to defendant Danny Montanez

**TENTH CAUSE OF ACTION**

37. Answering paragraph number “146” of the plaintiffs’ Complaint herein, defendant Danny Montanez repeats, reiterates and realleges each and every denial heretofore made in regard to each and every paragraph of plaintiffs’ Complaint designated as “1” through “145” inclusive with the same force and effect as though more fully set forth at length herein.

38. Denies each and every allegation contained in paragraphs 147, 148, 149, 150, 151 and 152, as it applies, refers or relates to defendant Danny Montanez

**ELEVENTH CAUSE OF ACTION**

39. Answering paragraph number “153” of the plaintiffs’ Complaint herein, defendant Danny Montanez repeats, reiterates and realleges each and every denial heretofore made in regard to each and every paragraph of plaintiffs’ Complaint designated as “1” through “152” inclusive with the same force and effect as though more fully set forth at length herein.

40. Denies each and every allegation contained in paragraphs 155, 156, 157, 158 (i) - (iv), 159, 160, 161 and 162, as it applies, refers or relates to defendant Danny Montanez

**AS AND FOR A FIRST  
AFFIRMATIVE DEFENSE**

41. The Complaint, as it applies, refers or relates to defendant Danny Montanez fails to state claims upon which relief may be granted.

**AS AND FOR A SECOND  
AFFIRMATIVE DEENSE**

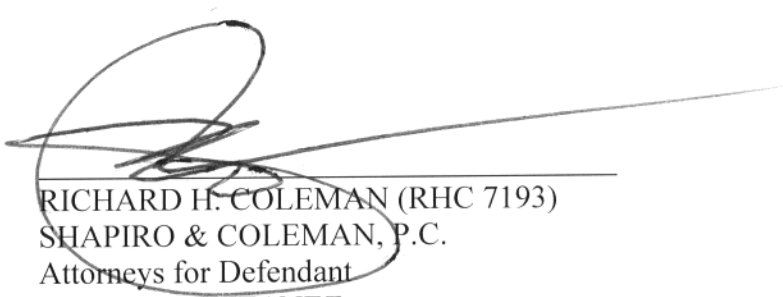
42. The defendant, Danny Montanez never utilized, caused nor permitted his Notary Public stamp to be affixed to any documents or papers referred to by plaintiffs in the Complaint, nor did said defendant individually execute, as Notary Public, any documents or papers referred to by plaintiffs in the Complaint, nor did said defendant permit nor authorize any person to affix his signature, as a Notary public, to a document or paper referred by plaintiffs in the Complaint.

43. By reason of the foregoing, said defendant is not liable to plaintiffs for non-permissive use of said defendant's Notary Public stamp and use of said defendant's signature purporting to be a Notary Public, if any, was falsely made, completed or altered, by another person, without actual or constructive knowledge, permission or consent, of said defendant.

44. For the foregoing reasons, the Complaint be dismissed as against the said defendant.

WHEREFORE, defendant Danny Montanez demands judgment dismissing the plaintiffs' Complaint, together with the costs and disbursements of this action.

Dated: N. Massapequa, NY  
November 29, 2010



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